

## ***Bureau of Water General Information on Appeals***

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### ***Purpose***

This brochure is designed to help explain the steps to be followed in appealing the Bureau of Water staff's final permit decisions.

### ***Notifying the public***

The Bureau of Water of the Department of Health and Environmental Control has adopted a policy to notify all persons who signed the register at the public hearing along with those who submitted comments and/or petitions. The notification will be the staff's final decision, commonly referred to as a final determination. After a final determination, any affected party has thirty (30) days to file a formal administrative appeal of the staff's decision. In your appeal you must:

1. State the reasons why you disagree with the Department's decision;
2. Tell how you are adversely affected by the decision; and
3. List the action(s) that you want the Department to take in lieu of its decision.

The final determination public notice will contain the specifics on how to request an adjudicatory hearing.

### ***Staff's decision is appealed***

Upon receipt of an appeal, the Department's legal office will forward the appeal to the State's Administrative Law Court for assignment to an Administrative Law Judge (ALJ). The ALJ will determine whether to grant or deny the appeal. If the appeal is granted, the ALJ will hear the case under the procedures established by the "Administrative Procedures Act" (APA) for Contested cases in Volume 25, Code of Laws of South Carolina, 1976, Chapter 61, Rule 61-72, and the Administrative Law Court's Procedures.

When an appealed is filed, the entire permit is stayed until the appeal process is completed unless determined otherwise by the ALJ.

### ***What happens at the Adjudicatory Hearing?***

In an adjudicatory hearing, the rules of circuit court generally apply. This means that depositions will be taken if necessary and also sworn testimony presented with witnesses being questioned by attorneys from each side. At the conclusion of the hearing, the ALJ will review the transcript and issue an order. All parties involved in the Adjudicatory Hearing have thirty (30) days to appeal the ALJ's decision to the DHEC Board.

## ***Appeal of the Administrative Law Judge's Order to the DHEC Board***

When the ALJ's decision is appealed, the Board will review the ALJ's decision at a regularly scheduled monthly Board meeting. The attorneys for each side will be given the opportunity to briefly state their case before the Board. The Board will then make the final decision for the agency. Following the Board's decision, any affected party has thirty (30) days to appeal. The appeal of the Board's decision is to a circuit court. The APA governs the appeal process. If an appeal is not filed in circuit court, the Board's decision will determine the final status of the proposed permit. If an appeal is filed, then the court's decision will determine the final status of the proposed permit.

## ***No Appeal of ALJ's Order***

If an appeal of the ALJ's decision is not made to the DHEC Board, the ALJ's decision is final. The ALJ's Order determines the final status of the proposed permit.

## ***For More Information***

### ***To get information on appeals, contact:***

Legal Office  
SCDHEC  
2600 Bull Street  
Columbia, SC 29201  
Telephone # (803) 898-3350

### ***To obtain copies of permit determinations and other related information, contact:***

Freedom of Information Administrator  
SCDHEC  
Freedom of Information Office  
2600 Bull Street  
Columbia, SC 29201  
Telephone # (803) 898-3882